

EX PARTE OR LATE FILED

BY CERTIFIED MAIL

RECEIVED

FEB 24 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

February 5, 1998

Ms. Michelle Carey  
Federal Communications Commission  
1919 M Street, N.W.  
Washington D.C. 20554

DO NOT FILE COPY ORIGINAL

Re: In the Matter of the Merger of MCI Communications Corporation  
and Worldcom Inc.  
Docket No. 97-211

Attention: Ms. Michelle Carey

Dear Ms. Carey:

TMB Communications Inc., previously filed a Petition To Deny referenced by the above docket 97-211. On January 20, 1998, TMB filed a letter and an additional 107 page document, entitled TMB Business Discussion, which describes, in detail, examples of the allegations against MCI Communications Corporation that were put forth in the petition.

This letter follows our conversation and verbal statement to you affirming that the aforementioned document is NOT CONFIDENTIAL AND IS ALLOWABLE TO BE ENTERED INTO THE PUBLIC RECORD. Please feel free to contact me or my counsel referenced below for any further questions.

Truly,

Frank Mitchell

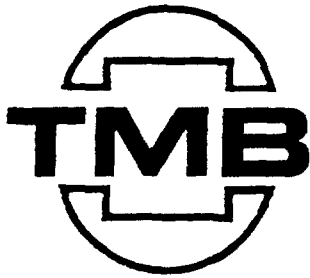
Please Call or Reply to:  
Frank O. Mitchell  
TMB Communications Inc.,  
1401 Shadwell Circle  
Lake Mary, Florida 32746 407-444-3824

Or to our Counsel: Thomas Hart Jr.  
of Ginsburg, Feldman & Bress,  
Washington D. C. 202-637-9078

No. of Copies rec'd  
List ABCDE

024

TMB COMMUNICATIONS, INC.



EX PARTE OR LATE FILED

RECEIVED

FEB 24 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

BY CERTIFIED MAIL

DOCKET FILE COPY ORIGINAL

February 5, 1998

Ms. Michelle Carey  
Federal Communications Commission  
1919 M Street, N.W.  
Washington D.C. 20554

Re: In the Matter of the Merger of MCI Communications Corporation  
and Worldcom Inc.  
Docket No. 97-211

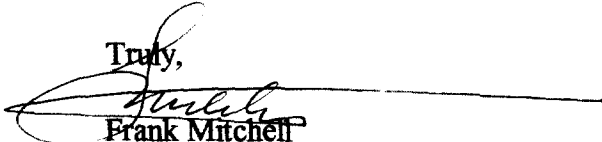
Attention: Ms. Michelle Carey

Dear Ms. Carey:

TMB Communications Inc., previously filed a Petition To Deny referenced by the above docket 97-211. On January 20, 1998, TMB filed a letter and an additional 107 page document, entitled TMB Business Discussion, which describes, in detail, examples of the allegations against MCI Communications Corporation that were put forth in the petition.

This letter follows our conversation and verbal statement to you affirming that the aforementioned document is NOT CONFIDENTIAL AND IS ALLOWABLE TO BE ENTERED INTO THE PUBLIC RECORD. Please feel free to contact me or my counsel referenced below for any further questions.

Truly,

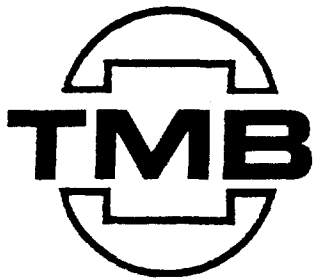


Frank Mitchell

Please Call or Reply to:  
Frank O. Mitchell  
TMB Communications Inc.,  
1401 Shadwell Circle  
Lake Mary, Florida 32746 407-444-3824

Or to our Counsel: Thomas Hart Jr.  
of Ginsburg, Feldman & Bress,  
Washington D. C. 202-637-9078

**TMB COMMUNICATIONS, INC.**



T. Power

CCB-  
MCI Worldcom

JAN 27 8 04 AM '98

EX PARTE OR LATE FILED

RECEIVED

January 20, 1998

FEB 24 1998

Mr. William Kennard  
Chairman  
Federal Communications Commission  
1919 M Street, N.W.  
Washington D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

DOCKET FILE COPY ORIGINAL

Re: In the Matter of the Merger of MCI Communications Corporation  
and Worldcom Inc.  
Docket No. 97-211

Mr. Chairman:

TMB Communications Inc., previously filed a Petition To Deny referenced by the above docket 97-211. This letter transmits an additional document which describes in detail examples of the allegations against MCI Communications Corporation that were put forth in the petition.

Additionally, please see the Attachment A which describes our communication with MCI's personnel who confirm that deliberate orders have been given to withhold and divert payments due to TMB by MCI. This stands as another demonstration of MCI's coercive and retaliatory actions aimed at preventing us from disclosing their practices.

Truly

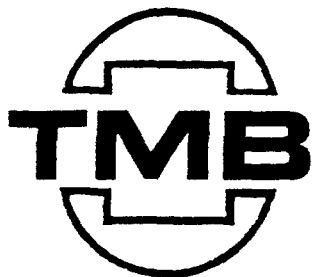
Frank Mitchell

Please Call or Reply to:  
Frank O. Mitchell  
TMB Communications Inc.,  
1401 Shadwell Circle  
Lake Mary, Florida 32746  
407-444-3824

No. of Copies rec'd \_\_\_\_\_  
List ABCDE \_\_\_\_\_

0

TMB COMMUNICATIONS, INC.



XEROX FILE COPY ORIGINAL

**Attachment A****BY CERTIFIED MAIL**

January 18, 1998

Ms. Susan Northrup  
External Commissions  
MCI Communications Corporation  
Department 7621  
6 Concourse Parkway  
Atlanta Georgia 30328

Dear Ms. Northrup:

This letter is to thank you for the work that you have done to internally investigate missing payments due but not made to TMB Communications. This is also to confirm our receipt of your voice mail message and our conversation where you explained that orders were given apparently from the MCI offices of Thomas F. O'Neill and Anthony De Laurentis to withhold and divert checks that were made payable to TMB Communications Inc.

Exhibits I and 2, attached, demonstrate that MCI has the means to successfully reach us as they have.

Truly,



Frank Mitchell

Please Call or Reply to:  
Frank O. Mitchell  
TMB Communications Inc.,  
1401 Shadwell Circle  
Lake Mary, Florida 32746

**TMB COMMUNICATIONS, INC.**

**10 Bureau of Discussion**  
**October 1996**

**Jay Sperco, Vice President**  
**Cindy Kenyon, Director**  
**MCI Communications, Inc.**

**TMB Communications Inc.,**

Agent For MCI Since 1991  
Brought Customers to MCI Who were First  
Customers of TMB as Far Back as 1985  
Discovered Certain  
Customer and Commission Issues

TMB Repeatedly Appealed to MCI For Remedy; None Was  
Forthcoming As a

Committed and Exclusive Partner With MCI, However  
Problems Continued And

, The New Inheritor Of the Agency Program,  
Has

## **Executive Summary**

### **Proposed Action**

- **Problem Area Overview**
- **Problem Area Contract Rights**
- **Problem Area Analyses**
- **Problem Area Case Documentation**
- **Impact, Prevalence and Injury**
- **Restatement: Proposed Action**

# **EXECUTIVE SUMMARY**

**TMB Communications Inc.,**



**Last 40-60 Days, Key Problems Were  
Summarized And Documented**

**Severe**

**This is Not a Complete or Comprehensive  
Accounting of All the Incidents, but Illustrative**

**Sample of Nature and Scope**

**Present These Findings**

**Identify MCI Executive Management Who Will**

**Intervene For Action And Resolution**

**Gain Agreement regarding the Nature, Scope**

**Extent and Number of Agreements**

- **Gain Preliminary**

---

**suggested Theft of Agent  
Customers and Customer Revenue  
apparent**

**Agent Customers, Interstate, using Mail and Telephone**

**A Pattern and Practice of apparent Control over Agent  
Stolen Customers and Revenue Using Inter-  
Communications**

- **A Pattern and Practice of**

**and Monthly Usage, thereby implying lower  
Agent Commissions**

- **Managers were informed of the Multiple Apparent  
Thefts, But Did Not Remedy; This Suggests They**

---

## **Multiple and Distinct Acts**

**Continuous Over Several**

**Years**

- **Multiple Acts** Related by their use of Internet Solicitation
- **Multiple Acts** to Customers to From Agent
- **There is** ; No Operants in force which Definitely Assures the Stop of Thefts and Restoration of Stolen Revenue
- **Information Suggests that these**

**Association in Fact  
Acquired an Interest in and Control over Customer  
Predicate Acts of**

**apparent Theft**

**Failure To Properly Report Customer Usage to Agent  
and Failure to Pay Commissions to Agent**

**Apparent Theft of Good Faith Covenant by Agent**

**Providing Service Levels That Would Affect**

**Customer**

**Repeated Practice of Late Order Processing and  
Installation Errors which Result in apparent**

**Discrepancies to Customer and Lost Revenue to Agent**

**Discrepancies to Customer and Lost Revenue to Agent**

**From**

**Agent Commissions**

---

**That The Agent Cannot Rely Upon The Agent  
Program To Preserve The Agent's Interests In Its  
Customers And To Accurately and Equitably Preserve  
the Agent's Future Contract Benefit**

**Agent has continued to Invest in Fulfilling Agent's Obligations**

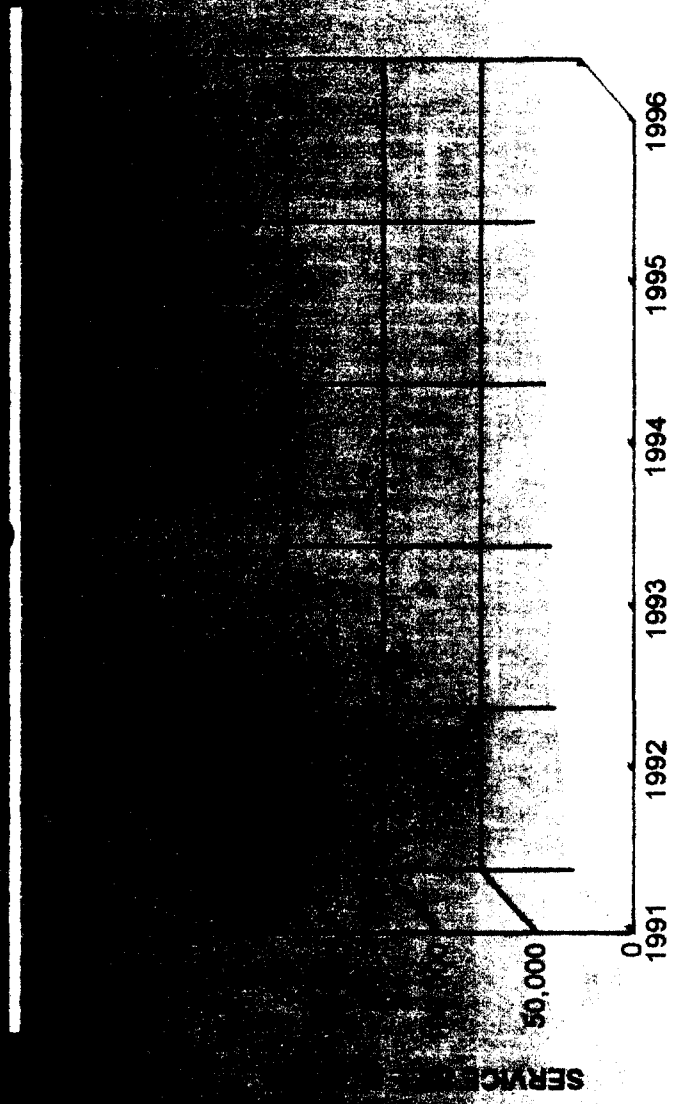
**Predicate Acts have impaired and misreported the Agent's Attainment of Ramp**

**Improper application of Ramp Penalties  
These Apparent Predicate Acts have Steadily Eroded Agent Revenue, Effectively putting Agent Out of Business**

**Agent has responded with Remedial Actions  
Apparent Predicate Acts**

**MCI Has not Responded with Remedy Except Agency, Formally Putting Agent Out Of Business**

**Although This Study Was Limited, The Agents Appear To Have The Potential For Growth**



EXAMINED UNEXAMINED



**\$18,000,000**

**\$18,000,000**

**Customer  
Billing Issues**

**EXAMINED UNEXAMINED**

91 92 93 94 95 96

APPARENT STOLEN  
ACCOUNTS

DAYS LOST  
REVENUE

CHARGE BACKS

COMMISSION  
NONPAYMENT

# According To The Pattern

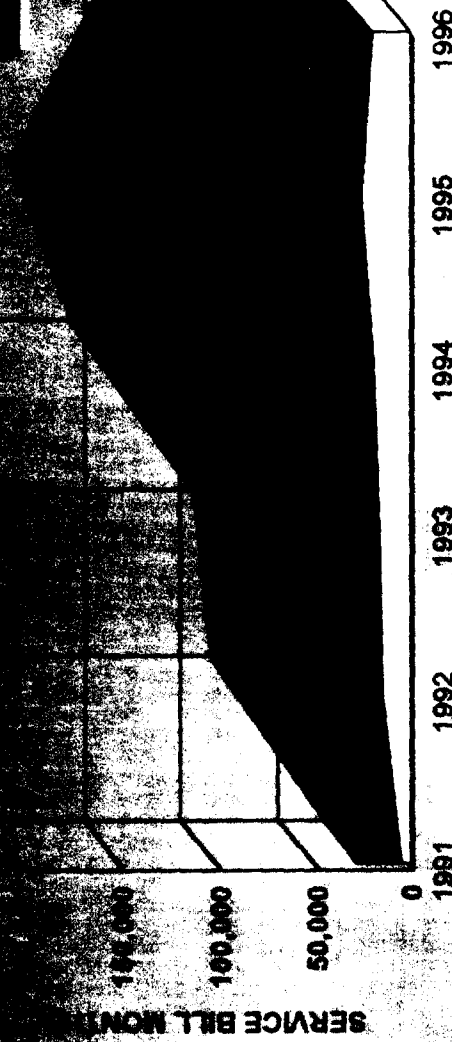
\$ 75,000,000

Only 17% Of The Agent  
Potential Was Examined

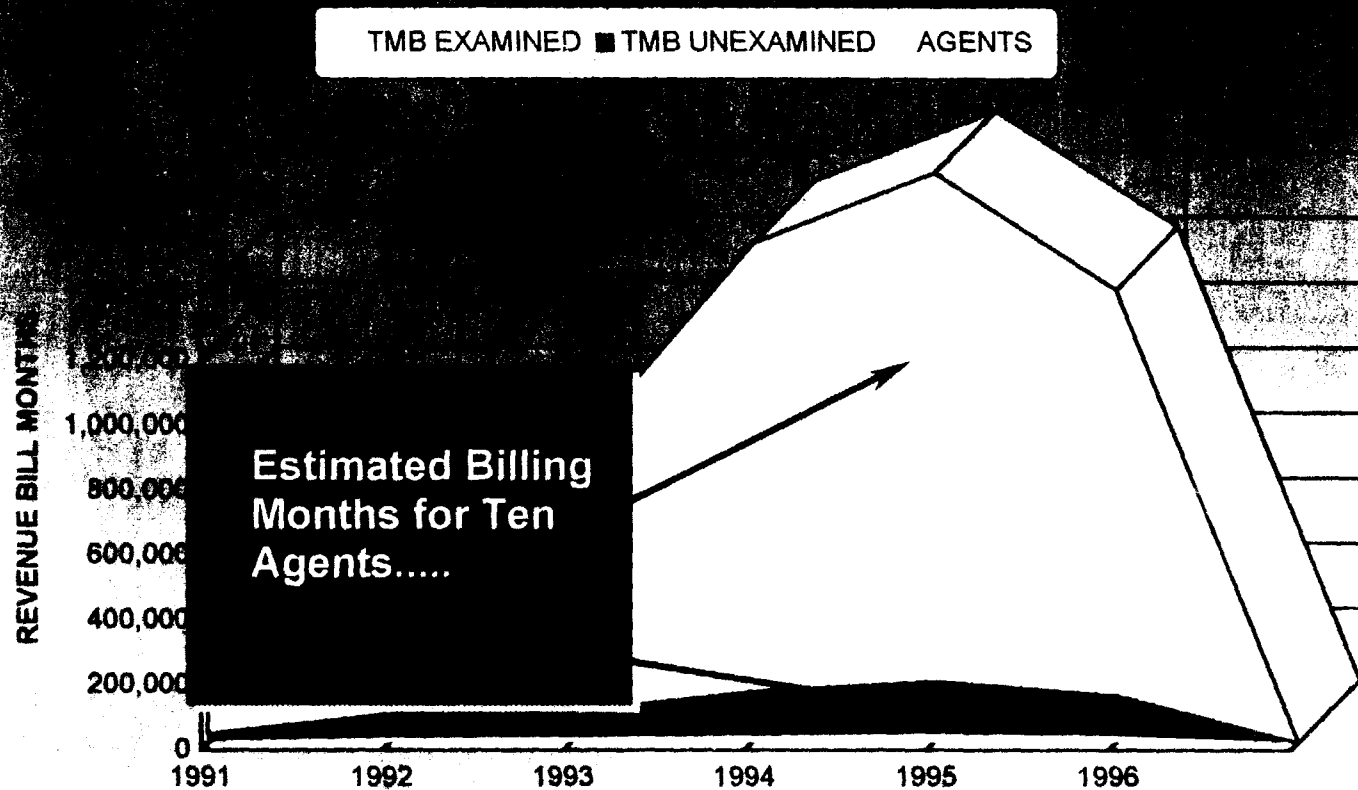
\$18,000,000

\$75,000,000

Customer  
Billing Issues



EXAMINED ■ UNEXAMINED



91 92 93 94 95 96

APPARENT STOLEN  
ACCOUNTS

AGENCY

DAYS LOST  
REVENUE

AGENCY

TWIB

AGENCY  
AGENCY

CHARGE BACKS

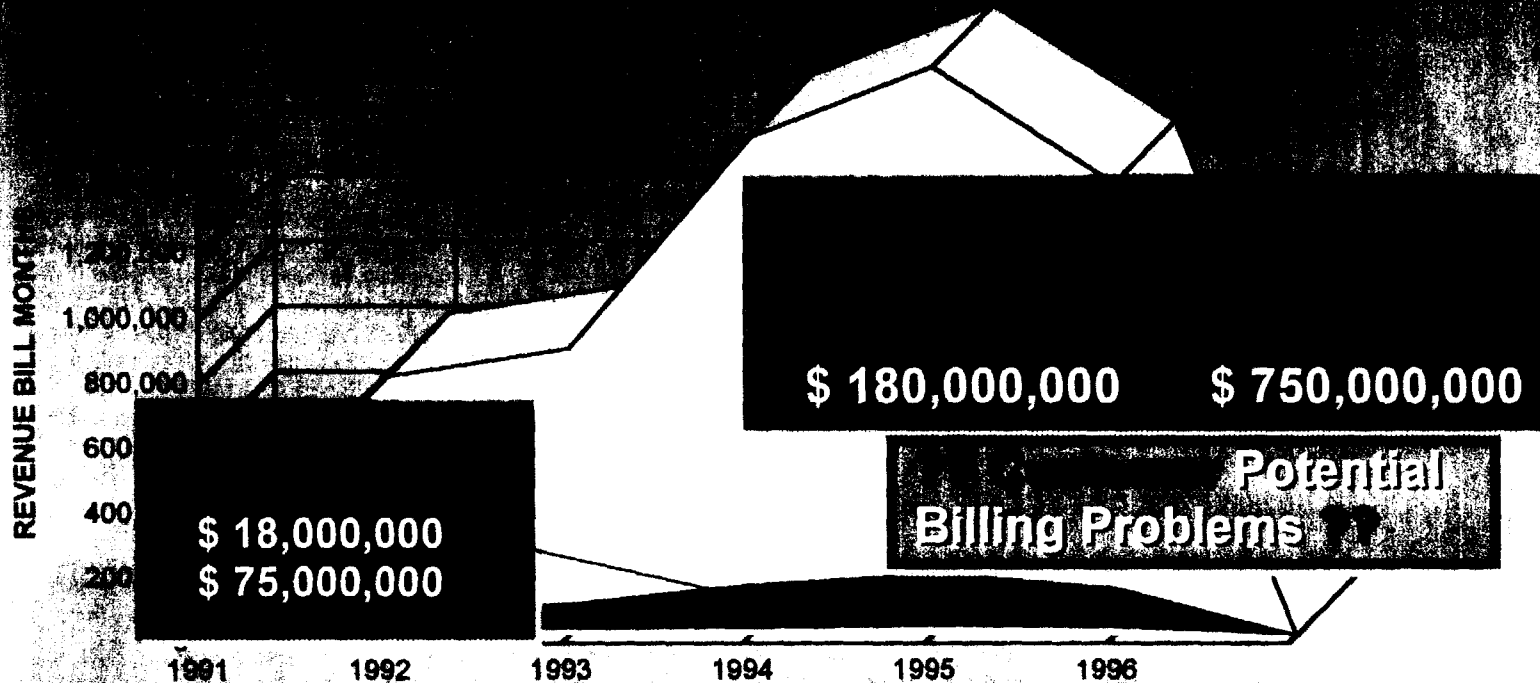
AGENCY  
AGENCY

AGENCY  
AGENCY

COMMISSION  
NONPAYMENT

**\$180,000,000 To \$750,000,000**

TMB EXAMINED ■ TMB UNEXAMINED AGENTS



**We Believe That The Agents Appeal To MCI For Help  
Warrants MCI Management Attention**

# MCI

Substantially Harmed,

MCI Has Formally Put Us Out Of Business  
We Have Always Striven To Perform

Our Longstanding Large Customers  
Trusted

Us To Lead Them To High Quality Service With Integrity

The Actions

Not the Image  
Customers To Believe...

Not the Image  
Not The Image

Shareholders

Are Not The Image Of The Brand...  
We Have Convinced Our

In the Minds Of The Public...  
In The Minds Of Our

Not The Image That The Brand Would Want To  
Present To Its Customers, Its Public and Its Partners...

**TMB Communications Inc.,**

CONFIDENTIAL - Page 21



## Pattern and Practice Suggesting Theft Agent

- **Mishandled Orders**
  - Lost Revenue To Agent
  - Potential Billing Problems
  - Potential Revenue Lost to MCI
- **Apparent Misrepresentation and Consistent Account for, Properly Report, and**

**Lost  
\$**